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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,670	08/19/2003	Yoshimasa Hayama	H07-159418M/MNN	3516
21254	7590	09/11/2006		
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817				
			EXAMINER	
			SNIDER, THERESA T	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/642,670

Applicant(s)

HAYAMA ET AL.

Examiner

Theresa T. Snider

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1-5 and 7-10 are objected to because of the following informalities: claim 1, line 14, 'wherein' should be replaced with 'wherein'. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-5 and 7-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary of such:

Claim 1, line 11, it is unclear as to whether the 'a power tool' is in addition to that of preamble or one in the same.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over The Admitted State of the Prior Art as set forth in figures 9-10 and pages 1-4 of the specification (hereafter ASPA) in view of Sparrow.

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ASPA discloses a similar dust collector however fails to disclose a remote control transmitter and receiving antenna.

ASPA discloses a motor, drive unit and dust collection fan (page 1, lines 20-21).

ASPA discloses a head section (element at end of lead line for 4”).

ASPA discloses a switch on the head section (col. 2, lines 1-2).

ASPA discloses a tank section located below the head section (fig. 9, #3).

ASPA discloses a duct hose having one end connected to the tank section and the other end connected to a power tool (fig. 9, #3,7,6).

ASPA discloses a power cord associated with the dust collector (fig. 9, #8).

ASPA discloses the power tool having a power cord (fig. 9, #8).

Sparrow discloses a dust collector having a remote control transmitter, a receiver and an antenna (col. 2, lines 25-36). It would have been obvious to one of ordinary skill in the art to provide the remote controller transmitter and receiver in ASPA to allow for operation of the dust collector from a remote location, the site of the power tool.

With respect to claims 7-9, it would have been obvious to one of ordinary skill in the art to determine the most appropriate location to mount the antenna of ASPA in view of Sparrow to allow for the least interference from the dust collector.

With respect to claim 10, it would have been obvious to one of ordinary skill in the art to determine the most conventional means to connect the antenna to the receiver in ASPA in view of Sparrow to allow for the clearest signal.

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6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over ASPA in view of Sparrow and Knoedler et al.

ASPA in view of Sparrow et al. discloses a similar collector however fails to disclose a catching hook portion on the remote transmitter.

Sparrow disclose placement of the transmitter on an operator (fig. 1, #22). Knoedler et al. discloses a unit that transmits with a remote unit having a catching hook with a u-shaped cross section to facilitate carrying on one's person (fig. 3, #66, col. 4, lines 21-34). It would have been obvious to one of ordinary skill in the art to provide the hook of Knoedler et al. in ASPA view of Sparrow to allow for attachment to one's person for easy accessibility.

7. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over ASPA in view of Sparrow and Edwards et al..

ASPA in view of Sparrow discloses a similar collector however fails to disclose at least one accommodating portion.

Edwards et al. discloses an accommodating portion for a remote control transmitter (fig. 2, #25). It would have been obvious to one of ordinary skill in the art to provide an accommodating portion in ASPA in view of Sparrow to allow for storage of the transmitter to prevent misplacing of it. It would have been obvious to one of ordinary skill in the art to determine the most appropriate location for the accommodating portion in ASPA in view of Sparrow and Edwards et al. to allow for the greatest operator access with the least amount of interference with the dust collector components.

With respect to claim 5, it would have been obvious to one of ordinary skill in the art to determine the most appropriate accommodating and retaining portion structure in ASPA in view of Sparrow and Edwards et al. to allow for the most effective attachment to a structure while still allowing for an operator to easily remove the transmitter from the portion.

Allowable Subject Matter

8. Claim 2 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: the prior art discloses dust collectors having a switch which needs to be turned on and off and a switch that is turned on and off using a remote control transmitter HOWEVER fails to disclose a changeover switch for changing between the two.

Response to Arguments

10. Applicant's arguments with respect to claims 1-5 and 7-10 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues the secondary references fail to disclose the combination of a dust collector and a hand-held power tool. Examiner agrees with this argument. It is noted, however, that the Admitted State of the Prior Art, the primary reference, discloses the combination of a dust collector with a hand-held power tool. Therefore, as long as there is motivation to combine

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the element/s of the secondary reference/s with ASPA, the secondary references need not also teach the combination.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. EP0544992 discloses a dust collector having both a main switch and a remote control switch.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (571) 272-1277. The examiner can normally be reached on Monday-Friday (5:30am-2:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Theresa T. Snider

Theresa T. Snider
Primary Examiner
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9/6/06